

**IN THE U.S. DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

APPLE INC.,

Plaintiff,

v.

MASIMO CORPORATION and
SOUND UNITED, LLC,

Defendants.

C.A. No. 1:22-cv-01378-MN-JLH

**DECLARATION OF BRIAN HORNE IN SUPPORT OF DEFENDANTS' OPPOSITION
TO PLAINTIFF'S MOTION TO DISMISS MASIMO CORPORATION'S
COUNTERCLAIMS AND STRIKE ITS INEQUITABLE CONDUCT AFFIRMATIVE
DEFENSE**

I, Brian Horne, declare as follows:

1. I am a partner with the law firm of Knobbe, Martens, Olson & Bear, LLP, counsel of record for Defendants Masimo Corporation and Sound United, LLC in the above-captioned matter. I have personal knowledge of the matters set forth herein and if I am called upon to testify, I could and would testify competently thereto.

2. Attached hereto as **Exhibit 1** is a true and correct copy of the Address & Attorney/Agent Information for U.S. Patent No. 11,474,483.

3. Attached hereto as **Exhibit 2** is a true and correct copy of the Address & Attorney/Agent Information for U.S. Patent No. 10,627,783.

4. Attached hereto as **Exhibit 3** is a true and correct copy of the Address & Attorney/Agent Information for U.S. Patent No. 10,942,491.

5. Attached hereto as **Exhibit 4** is a true and correct copy of U.S. Patent No. 9,497,534.

6. Attached hereto as **Exhibit 5** is a true and correct copy of U.S. Patent No. 10,372,881.

7. Attached hereto as **Exhibit 6** is a true and correct copy of U.S. Patent No. 9,137,309.

8. Attached hereto as **Exhibit 7** is a true and correct copy of *Certain Light-Based Physiological Measurement Devices and Components Thereof*, Inv. No. 337-TA-1276, Public Version of Appendix A to Apple Inc.'s Response to First Amended Complaint and Notice of Investigation, Doc. ID 752521 (Sept. 23, 2021).

9. Attached hereto as **Exhibit 8** is a true and correct copy of an excerpt of U.S. Patent No. 10,984,911, which was produced by Apple in *Masimo Corp. et al. v. Apple, Inc.*, 8:20-cv-

00048-JVS (the “Central District of California litigation”) bearing production numbers APL-MAS_02272725-APL-MAS_02272797.

10. Attached hereto as **Exhibit 9** is a true and correct copy of an excerpt of U.S. Patent No. 10,687,743, which was produced by Apple the Central District of California litigation bearing production numbers APL-MAS_02010786-APL-MAS_02010814.

11. Attached hereto as **Exhibit 10** is a true and correct copy of an excerpt of U.S. Patent No. 10,722,159, which was produced by Apple the Central District of California litigation bearing production numbers APL-MAS_02011217-APL-MAS_02011245.

12. Attached hereto as **Exhibit 11** is a true and correct copy of an excerpt of U.S. Patent No. 8,190,223, which was produced by Apple the Central District of California litigation bearing production numbers APL-MAS_02046393-APL-MAS_02046433.

13. Attached hereto as **Exhibit 12** is a true and correct copy of an excerpt of U.S. Patent No. 10,687,743, which was produced by Apple the Central District of California litigation bearing production numbers APL-MAS_02085768-APL-MAS_02085796.

14. Attached hereto as **Exhibit 13** is a true and correct copy of an excerpt of U.S. Patent No. 10,722,159, which was produced by Apple the Central District of California litigation bearing production numbers APL-MAS_02086199-APL-MAS_02086227.

15. Attached hereto as **Exhibit 14** is a true and correct copy of an excerpt of U.S. Patent No. 8,190,223, which was produced by Apple the Central District of California litigation bearing production numbers APL-MAS_02118414-APL-MAS_02118454.

16. Attached hereto as **Exhibit 15** is a true and correct copy of an excerpt of U.S. Patent No. 10,687,743, which was produced by Apple in the Central District of California litigation bearing production numbers APL-MAS_02150438-APL-MAS_02150466.

17. Attached hereto as **Exhibit 16** is a true and correct copy of an excerpt of U.S. Patent No. 10,722,159, which was produced by Apple in the Central District of California litigation bearing production numbers APL-MAS_02150869-APL-MAS_02150897.

18. Attached hereto as **Exhibit 17** is a true and correct copy of an excerpt of U.S. Patent No. 8,190,223, which was produced by Apple in the Central District of California litigation bearing production numbers APL-MAS_02183147-APL-MAS_02183187.

19. Attached hereto as **Exhibit 18** is a true and correct copy of an excerpt of U.S. Patent No. 8,190,223, which was produced by Apple in the Central District of California litigation bearing production numbers APL-MAS_02225581-APL-MAS_02225621.

20. Attached hereto as **Exhibit 19** is a true and correct copy of an excerpt of U.S. Patent No. 10,984,911, which was produced by Apple in the Central District of California litigation bearing production numbers APL-MAS_02260836-APL-MAS_02260908.

21. Attached hereto as **Exhibit 20** is a true and correct copy of an excerpt of U.S. Patent No. 10,687,743, which was produced by Apple in the ITC Investigation bearing production numbers APL_MAS_ITC-00044061-APL_MAS_ITC-00044089.

22. Attached hereto as **Exhibit 21** is a true and correct copy of an excerpt of U.S. Patent No. 10,722,159, which was produced by Apple in the ITC Investigation bearing production numbers APL_MAS_ITC-00044492-APL_MAS_ITC-00044520.

23. Attached hereto as **Exhibit 22** is a true and correct copy of an excerpt of U.S. Patent No. 8,190,223, which was produced by Apple in the ITC Investigation bearing production numbers APL_MAS_ITC-00079851-APL_MAS_ITC-00079891.

24. Attached hereto as **Exhibit 23** is a true and correct copy of an excerpt of U.S. Patent No. 10,687,743, which was produced by Apple in the ITC Investigation bearing production

numbers APL_MAS_ITC-00119292-APL_MAS_00119320.

25. Attached hereto as **Exhibit 24** is a true and correct copy of an excerpt of U.S. Patent No. 10,722,159, which was produced by Apple in the ITC Investigation bearing production numbers APL_MAS_ITC-00119723-APL_MAS_00119751.

26. Attached hereto as **Exhibit 25** is a true and correct copy of an excerpt of U.S. Patent No. 8,190,223, which was produced by Apple in the ITC Investigation bearing production numbers APL_MAS_ITC-00151938-APL_MAS_00151978.

27. Attached hereto as **Exhibit 26** is a true and correct copy of an excerpt of U.S. Patent No. 10,687,743, which was produced by Apple in the ITC Investigation bearing production numbers APL_MAS_ITC-00183962-APL_MAS_00183990.

28. Attached hereto as **Exhibit 27** is a true and correct copy of an excerpt of U.S. Patent No. 10,722,159, which was produced by Apple in the ITC Investigation bearing production numbers APL_MAS_ITC-00184393-APL_MAS_00184421.

29. Attached hereto as **Exhibit 28** is a true and correct copy of an excerpt of U.S. Patent No. 8,190,223, which was produced by Apple in the ITC Investigation bearing production numbers APL_MAS_ITC-00216671-APL_MAS_00216711.

30. Attached hereto as **Exhibit 29** is a true and correct copy of an excerpt of U.S. Patent No. 8,190,223, which was produced by Apple in the ITC Investigation bearing production numbers APL_MAS_ITC-00259093-APL_MAS_00259133.

31. Attached hereto as **Exhibit 30** is a true and correct copy of an excerpt of U.S. Patent No. 10,984,911, which was produced by Apple in the ITC Investigation bearing production numbers APL_MAS_ITC-00362036-APL_MAS_00362108.

32. Attached hereto as **Exhibit 31** is a true and correct copy of an excerpt of U.S. Patent

No. 10,984,911, which was produced by Apple in the ITC Investigation bearing production numbers APL_MAS_ITC-00373783-APL_MAS_00373855.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on March 28, 2023 in Los Angeles, California.

/s/ Brian C. Horne

Brian C. Horne